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**From:** Santell, Stephanie [Santell.Stephanie@epa.gov]  
**Sent:** 3/4/2020 10:02:16 PM  
**To:** Goodin, John [Goodin.John@epa.gov]  
**Subject:** Note to IO on 404g  
**Attachments:** Ross to RA Ref. Region Cooperation with HQ on Future Actions 11.21.19 (002).docx; FL Criminal Enforcement 12.4.19.docx

Dave,

In advance of our meeting with you next week, I am passing along a briefing paper capturing several challenges with Florida's current enforcement authorities that pose broader implications for the 404(g) rulemaking. Florida is moving toward submitting a package to EPA this summer. We were asked to identify outstanding issues (including any potential barriers).

As mentioned in our last biweekly, the Region had several discussions with Florida regarding the need for their authorities to be consistent with CWA requirements for EPA to approve the program. We are working with Janita to hold a briefing next week to discuss this issue with you, Mary Walker, Susan Bodine, and OGC (David Fotouhi will represent OGC as Matt L. is recused from FL issues at this time). While this paper briefly outlines the issues and options that could reconcile Florida's criminal enforcement authority with existing CWA requirements, OGC recommended an in-person discussion to fully provide context and help weigh the options. I've also attached a draft memo that communicates your request to have a HQ staff person (or manager as appropriate) engaged in all communications between Regional staff (or managers) and state/tribal staff (or managers) regarding CWA Section 404(g) efforts.

Note, our staff is meeting with Florida staff in Tallahassee this week to discuss the State's program description and the draft biological assessment as part of the informal consultation under ESA. The state also published their proposed regulations and handbook (which they consider to be like a rule and lays out the processes for coordination and permit review) on 2/13/20 with a 21-day review. Comments, including EPA's are due March 11. Just a heads up that if any showstoppers are identified we may need to raise them to you and Sr. leadership quickly to meet the state deadline.

Please let me know if you have any questions.

John

**Stephanie Santell**

**U.S. Environmental Protection Agency**

Office of Water | Office of Wetlands, Oceans, and Watersheds | Special Assistant

**202 566 0686**

[santell.stephanie@epa.gov](mailto:santell.stephanie@epa.gov)

{Success is not final, failure is not fatal; it is the courage to continue that counts} **Winston Churchill**